NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

Congressional Information Service, Inc.
4520 East-West Highway
Bethesda, Maryland 20814

CIS

102D CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
102-392

UNITED STATES-CHINA ACT OF 1991

NOVEMBER 26, 1991.—Ordered to be printed

Mr. ROSTENKOWSKI, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 2212]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212), regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-China Act of 1991".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Chinese people have provided a dramatic demonstration of their desire for democratic freedoms. Thousands of courageous Chinese students and workers, men and women, demonstrated on June 4, 1989, that they were willing to die, or face imprisonment or exile, in pursuit of democratic self-determination and human rights.

(2) The Government of the People's Republic of China, which is a member of the United Nations and obligated to uphold the Charter of the United Nations and the Universal Declaration of Human Rights, continues to engage in flagrant violations of internationally recognized human rights, including—

(A) torture and cruel, inhuman, or degrading treatment or punishment;

H783-33

(B) prolonged detention without charges and trial and sentencing of persons solely for the nonviolent expression of their political views;

(C) arbitrary arrest and the unacknowledged detention of persons; and

(D) use of forced labor of prisoners to produce cheap products for export to countries, including the United States, in violation of international labor treaties and United States law.

(3) The Government of the People's Republic of China has denied Chinese citizens who support the pro-democracy movement and others the right of free, unimpeded emigration.

(4) The Government of the People's Republic of China has restricted the number of students permitted to study abroad, required some college students to attend military indoctrination courses, and required university graduates to work 5 years after graduation and to pay large sums of money before being eligible to apply for study outside China.

(5) The Government of the People's Republic of China continues to violate the internationally recognized human rights of the people of Tibet and uses the People's Liberation Army and police forces to intimidate and repress Tibetan and Chinese citizens peacefully demonstrating for democratic change and religious freedom.

(6) The Government of the People's Republic of China is engaging in unfair trade practices against the United States by failing to protect intellectual property rights, raising tariffs, employing taxes as a surcharge on tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles to the United States through third countries.

(7) The Government of the People's Republic of China has not demonstrated its willingness and intention to participate as a full and responsible party in good faith efforts to control the proliferation of dangerous military technology and weapons, including biological, chemical, and nuclear weapons technologies.

(8) The Government of the People's Republic of China has interfered with the movement toward self-rule by the people of Hong Kong in their political, cultural, and economic activities.

(9) The President of the United States has suspended all government-to-government sales and commercial exports of defense articles and services to China and issued an Executive order to treat sympathetically requests by Chinese students in the United States to extend their stay.

(10) United States policy toward China has failed to prevent or discourage the People's Republic of China from—

(A) committing violations of internationally recognized human rights, including the rights of the people of Tibet;

(B) taking action that results in the proliferation of dangerous military technology and weapons; and

(C) engaging in unfair trade practices against the United States.

(b) POLICY.—It is the sense of the Congress that—

(1) with respect to the actions of the People's Republic of China in the areas of human rights, weapons proliferation, and unfair trade practices, the President should take such actions as necessary to achieve the purposes of this Act, including, but not limited to—

(A) instructing the United States delegation to the United Nations Commission on Human Rights to actively seek the appointment of a special rapporteur to investigate violations of internationally recognized human rights in China and to seek allied and Soviet support for such an investigation;

(B) directing the United States Trade Representative to take appropriate action pursuant to section 301 of the Trade Act of 1974 with respect to the trade practices of the People's Republic of China which are unreasonable, unjustifiable, or discriminatory and which burden or restrict United States commerce;

(C) interacting more forcefully with our allies, especially Japan and European countries, to accomplish the restriction of transfers of technology to China; and

(D) encouraging members of the Missile Technology Control Regime, and other countries, as appropriate, to set up a working group to develop a common policy concerning missile transfers to other countries by the People's Republic of China;

(2) the sanctions being applied against the People's Republic of China on the date of enactment of this Act should be continued and strictly enforced; and

(3) the President should submit the report required by the Joint Resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China (Public Law 99-183; 99 Stat. 1174).

SEC. 3. ADDITIONAL OBJECTIVES WHICH THE GOVERNMENT OF CHINA MUST MEET IN ORDER TO RECEIVE NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—The President may not recommend the continuation of a waiver in 1992 for a 12-month period under section 402(d) of the Trade Act of 1974 for the People's Republic of China unless the President reports in the document required to be submitted by such section that the government of that country—

(1) has, in regard to the events that led up to, and occurred during and after, the violent repression of dissent in Tiananmen Square on June 3, 1989—

(A) provided an accounting of citizens who were detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs during those events; and

(B) released citizens who were imprisoned after such detention, accusation, or sentencing; and

(2) has made overall significant progress in achieving the objectives outlined in each of the categories of—

(A) human rights, as described in subsection (b);

(B) trade, as described in subsection (c); and

(C) weapons proliferation, as described in subsection (d).

(b) HUMAN RIGHTS.—The human rights objectives described in this subsection are—

(1) taking appropriate action to prevent gross violations of internationally recognized human rights in the People's Republic of China, including Tibet;

(2) preventing exports of products made by prisoners and detainees assigned to labor camps, prisons, detention centers, and other facilities holding detainees, and allowing United States officials and international humanitarian and intergovernmental organizations to inspect the places of detention suspected of producing export goods to ensure that appropriate steps have been taken and are in effect;

(3) terminating religious persecution in the People's Republic of China, including Tibet, and releasing leaders and members of all religious groups detained, incarcerated, or under house arrest as a result of the expression of their religious beliefs;

(4) removing restrictions in the People's Republic of China, including Tibet, on freedom of the press and on broadcasts by the Voice of America;

(5) terminating the acts of intimidation and harassment of Chinese citizens in the United States, including the return and renewal of passports confiscated by authorities as retribution for prodemocracy activities;

(6) ensuring access of international human rights monitoring or humanitarian groups to prisoners, trials, and places of detention;

(7) ensuring freedom from torture and from inhumane prison conditions;

(8) terminating prohibitions on peaceful assembly and demonstration imposed after June 3, 1989;

(9) fulfilling its commitment to engage in high-level discussions on human rights issues; and

(10) adhering to the Joint Declaration on Hong Kong that was entered into between the United Kingdom and the People's Republic of China.

(c) TRADE.—The trade objectives described in this subsection are—

(1) providing adequate protection of United States patents, copyrights, and other intellectual property rights;

(2) providing American exporters fair access to Chinese markets, including lowering tariffs, removing nontariff barriers, and increasing the purchase of United States goods and services; and

(3) ceasing unfair trade practices against the United States which are unreasonable and discriminatory and which burden or restrict United States commerce.

(d) WEAPONS PROLIFERATION.—The weapons proliferation objectives described in this subsection are—

(1) adopting a national policy which adheres to, and ceasing activities inconsistent with—

(A) the limitations and controls contained in the Missile Technology Control Regime;

(B) the standards and guidelines set by the Nuclear Suppliers Group; and

(C) the standards and guidelines set by the Australia Group on chemical and biological arms proliferation; and

(2) taking clear and unequivocal steps to assure that the People's Republic of China is not assisting and will not assist any nonnuclear weapons state, directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices.

SEC. 4. SANCTIONS BY OTHER COUNTRIES.

If the President decides not to seek a continuation of a waiver in 1992 under section 402(d) of the Trade Act of 1974 for the People's Republic of China, he shall, during the 30-day period beginning on the date that the President would have recommended to the Congress that such waiver be continued, undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action with respect to the People's Republic of China.

SEC. 5. ENFORCEMENT OF PROHIBITION AGAINST IMPORTATION OF CONVICT-MADE GOODS.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended—

(1) by striking "All goods" and inserting "(a) IN GENERAL.—All goods";

(2) by striking " 'Forced Labor,' " and inserting "(b) FORCED LABOR.—'Forced Labor,' "; and

(3) by adding at the end thereof the following new subsection:

"(c) PENALTIES.—

"(1) IN GENERAL.—Any person who—

"(A) enters or imports, or attempts to enter or import, goods, wares, articles, or merchandise into the customs territory of the United States in violation of subsection (a); and

"(B) knew or should have known that such entry or importation, or attempted entry or importation, was in violation of such subsection,

shall be liable to pay to the United States a civil penalty.

"(2) AMOUNT OF PENALTY.—Any civil penalty imposed under paragraph (1) shall be in an amount not to exceed—

"(A) $10,000 for one violation;

"(B) $100,000 in the case of a person previously subject to a penalty for one violation under this section; or

"(C) $1,000,000 in the case of a person previously subject to penalties for more than one violation under this section.

"(3) The Secretary of the Treasury shall by regulation prescribe procedures for imposing penalties under this section, including, but not limited to, prepenalty notice.

SEC. 6. REPORT BY THE PRESIDENT.

If the President recommends in 1992 that the waiver referred to in section 3 be continued with respect to the People's Republic of China, the President shall include in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974 a report on the extent to which the Government of the People's Republic of China has, during the period covered by the report, complied with the provisions of section 3.

SEC. 7. DEFINITIONS.

For the purposes of this Act:

(1) ACTS OF INTIMIDATION AND HARASSMENT.—The term "acts of intimidation and harassment" in section 3(b)(5) means actions taken by the Government of the People's Republic of China that are intended to deter or interfere with, or to be in retaliation for, the nonviolent expression of political beliefs by Chinese citizens within the United States.

(2) DETAINED AND IMPRISONED.—The terms "detained" and "imprisoned" include, but are not limited to, incarceration in prisons, jails, labor reform camps, labor reeducation camps, and local police detention centers.

(3) FORCED LABOR.—The term "forced labor" has the meaning given to such term by section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(4) GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.—The term "gross violations of internationally recognized human rights" in section 3(b)(1) includes, but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(5) MISSILE TECHNOLOGY CONTROL REGIME.—The term "Missile Technology Control Regime" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology.

(6) SIGNIFICANT PROGRESS.—(A) The term "significant progress" in section 3(a)(2) means the implementation of measures that will meaningfully reduce, or lead to the termination of, the practices identified in that paragraph.

(B) With respect to section 3(d)(1), progress may not be determined to be "significant progress" if the President determines that, on or after November 26, 1991, the People's Republic of China has transferred to Syria or Iran—

(i) ballistic missiles or missile launchers for the weapons systems known as the M-9 or the M-11; or

(ii) material, equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device.

And the Senate agree to the same.

From the Committee on Ways and Means:

DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,

From the Committee on Foreign Affairs:

DANTE B. FASCELL,

STEPHEN J. SOLARZ,
Managers on the Part of the House.

From the Committee on Finance:

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

H.R. 2212, Regarding the Extension of Most-Favored-Nation Treatment to the Products of the People's Republic of China, and for Other Purposes

1. Short Title (Section 1 of Senate Amendment; Section 1 of Conference Agreement)

Present law

No provision.

House bill –

No provision.

Senate amendment

United States-China Act of 1991.

Conference agreement

House recedes.

2. Findings and Policy (Section 2 of Senate Amendment; Section 2 of Conference Agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

Sets forth certain findings relating to the prodemocracy demonstrations of the Chinese people; the actions and policies of the Government of China, including its continuing violations of internationally-recognized human rights, the denial of free emigration to citizens supporting the prodemocracy movement, weapons proliferation, support for the Khmer Rouge, restrictive trade practices, and interference in Hong Kong; and the policies of the United States toward China. States the sense of the Congress that U.S. sanctions in the areas of technology exports and international monetary loans should be continued and strictly enforced and that the U.S. Government should consult with the U.S. business community regarding guidelines for corporate activity in China.

Conference agreement

House recedes with an amendment: (1) to make various conforming, clarifying, and technical changes; (2) to drop the finding relating to the Khmer Rouge, and the policy statement relating to guidelines for corporate activity; (3) to merge section 3 of the Senate amendment (relating to Presidential action) into the policy section, with conforming changes; and (4) to add to the policy section a provision that the President should submit the report required by Public Law 99-183 regarding China's nuclear nonproliferation policies.

3. Renewal of MFN Status—Additional Objectives (Section 1(a) of House Bill; Section 4 of Senate Amendment; Section 3 of Conference Agreement)

A. HUMAN RIGHTS OBJECTIVES

Present law

Section 402 of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990, sets forth three objectives relating to freedom of emigration which must be met, or waived by the President, before a nonmarket economy country may be granted MFN status. A Presidential waiver must be renewed annually, in order for a country's MFN status to remain in effect.

Section 307 of the Tariff Act of 1930 prohibits the importation of goods made by convict or forced labor, and directs the Secretary of the Treasury to prescribe regulations for the enforcement of the prohibition.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government—

(1) has provided an accounting of citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs during and after the June 1989 Tiananmen Square incident;

(2) has released citizens who were imprisoned after such detention, accusation, or sentencing;

(3) is adhering to the Joint Declaration on Hong Kong;

(4) does not support or administer any program of coercive abortion or involuntary sterilization; and

(5) has taken appropriate steps to prevent exports of products made by prisoners and detainees, and has allowed U.S. and international inspection of places of detention.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government—

(1) has accounted for those citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs;

(2) has released those citizens who were imprisoned after such detention, accusation or sentencing;

(3) is adhering to the Joint Declaration on Hong Kong;

(4) does not support or administer any program of coercive abortion or involuntary sterilization; and

(5) has ceased exporting to the United States products made by convict, forced, or indentured labor under penal sanctions.

Conference agreement

Senate recedes with an amendment: (1) dropping the objective relating to abortion; and (2) moving the objectives relating to prison labor exports and Hong Kong to the "significant progress" section, with conforming changes.

B. WEAPONS PROLIFERATION OBJECTIVES

Present law

The Missile Technology Control Act (Title VII of Public Law 101-510) establishes requirements for negotiations and controls on the proliferation of missiles and technology, with trade and foreign policy sanctions required for violations.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government has provided assurances that it—

(1) is not assisting and will not assist any nonnuclear state in acquiring nuclear explosive devices or the materials and components for such devices; and

(2) will not contribute to the proliferation of missiles and adheres to the Missile Technology Control Regime, at least with respect to countries in the Middle East and South Asia.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has ceased supplying arms and military assistance to the Khmer Rouge.

Conference agreement

The conferees agreed to merge the various provisions in the bill relating to weapons proliferation into one provision and to move that provision to the "significant progress" category. The provision sets forth two objectives relating to weapons proliferation and adds a definition which states that progress may not be determined to be "significant progress," if the President determines that, on or after November 26, 1991, the People's Republic of China has transferred to Syria or Iran certain missiles or nuclear technologies or devices.

Senate recedes on the Khmer Rouge objective.

C. TRADE OBJECTIVES

Present law

No provision.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government has moderated its position on Taiwan's accession to the GATT.

Senate amendment

No provision.

Conference agreement

Senate recedes, with an amendment moving the provision to the "significant progress" section.

D. "SIGNIFICANT PROGRESS" OBJECTIVES

(i) Human rights

Present law

No provision.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government has made overall significant progress in:

(1) taking appropriate action to prevent gross violations of internationally recognized human rights in China, including Tibet;

(2) ending religious persecution in China, including Tibet;

(3) removing restrictions in China, including Tibet, on press freedom and VOA broadcasts;

(4) terminating intimidation and harassment of Chinese citizens in the United States;

(5) ensuring access of international human rights groups to prisoners, trials, and places of detention;

(6) ensuring freedom from torture and inhumane prison conditions; and

(7) terminating prohibitions on peaceful assembly and demonstration imposed after June 3, 1989.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has made significant progress in:

(1) taking appropriate action to prevent gross violations of internationally-recognized human rights and fundamental freedoms in China and Tibet, including ending religious persecution and restriction on press freedom and VOA broadcasts;

(2) terminating intimidation and harassment of Chinese citizens in the United States;

(3) ensuring access of international human rights groups to prisoners, trials, and places of detention;

(4) fulfilling its commitment to engage in high-level discussions on human rights.

Conference agreement

Senate recedes with an amendment adding an objective relating to high-level discussions on human rights.

(ii) Weapons proliferation

Present law

See description under item 3(b) above.

House bill

No provision.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has made significant progress in adopting a national policy which adheres to, and ceasing activities inconsistent with, the Missile Technology Control Regime and the standards and guidelines set by the Nuclear Suppliers group and the Australia Group on chemical and biological arms proliferation.

Conference agreement

See description under item 3(b).

(iii) Trade

Present law

Section 301 of the Trade Act of 1974 authorize the U.S. Trade Representative (USTR) to take action to enforce U.S. rights under trade agreements or eliminate foreign practices that violate trade agreements or are unjustifiable and burden or restrict U.S. commerce.

"Special" 301 authorizes the USTR to take action to achieve protection of U.S. intellectual property rights, and market access for U.S. persons that rely on intellectual property rights, in priority foreign countries.

House bill

No provision.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has made significant progress in—

(1) providing adequate protection of U.S. intellectual property rights;

(2) providing American exporters fair market access, including lowering tariffs, removing nontariff barriers, and increasing the purchase of U.S. goods and services; and

(3) ceasing unfair trade practices against the United States which are unreasonable and discriminatory and burdensome and restrict U.S. commerce through a variety of unfair trade practices.

Conference agreement

House recedes with an amendment dropping the detailed list of unfair trade practices (which is retained in the "Findings" section).

(iv) Other

Present law

Public Law 99-183, relating to nuclear cooperation between the U.S. and China, prohibits exports and transfers of U.S. nuclear material, facilities, or components to China unless the President certifies and reports to Congress that China has met certain requirements related to nuclear nonproliferation.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President has made the certification and submitted the report required by Public Law 99-183 on China's nuclear nonproliferation policies.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government is reducing assistance to Cuba, whether in the form of subsidized trade, management of trade balances, or in any other form.

Conference agreement

House recedes, with an amendment to add statement to policy section that the President should submit the report required by Public Law 99-183 regarding China's nuclear nonproliferation policies. See also description under item 3(b) with respect to weapons proliferation.

Senate recedes on objective relating to Cuba.

4. Presidential Action (Section 3 of Senate Amendment; Section 1(b) of Conference Agreement

Present law

No provision.

House bill

No provision.

Senate amendment

Directs the President to take the following actions:

(1) interact more forcefully with U.S. allies and multilateral lending institutions to restrict technology transfer to China;

(2) encourage members of the Missile Technology Control Regime to set up a working group to develop a common policy concerning China's missile transfers to other countries;

(3) direct the USTR to take appropriate action under section 301;

(4) encourage the UN Human Rights Commission to issue a report on human rights conditions in China, and encourage U.S. allies and the Soviet Union to encourage issuance of such a report; and

(5) take any other action the President deems advisable to achieve the purposes of the Act.

Conference agreement

House recedes with an amendment moving the provision to the "Policy" section, with conforming changes.

5. Termination of MFN Status (Section 5 of Senate Amendment)

Present law

Section 402(c)(3) of the Trade Act of 1974 states that the President may, at any time, terminate by Executive order any waiver granted under that subsection. (In addition, the President may choose not to extend the annual waiver of any country upon expiration of the waiver.)

House bill

No provision.

Senate amendment

Requires termination of China's MFN status no later than July 3, 1992, if the President determines after enactment of this Act that China has transferred to Syria or Iran (1) ballistic missiles or missile launchers for the M–9 or M–11 weapons systems or (2) material, equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device.

Conference agreement

See description under item 3(b).

6. Sanctions by Other Countries (Section 6 of Senate Amendment; Section 4 of Conference Agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

Delays effective date of any denial of China's MFN status pursuant to this Act for a 60-day period, during which time the President is required to undertake efforts to ensure that GATT members take similar action with respect to China.

Conference agreement

House recedes with an amendment, conforming the provision to the timetable in Title IV of the Trade Act of 1974 relating to the President's waiver notice (i.e., 30 days prior to the expiration of the previous waiver).

7. Enforcement of Ban on Imports of Convict-Made Goods (Section 7 of Senate Amendment; Section 5 of Conference Agreement)

Present law

Section 307 of the Tariff Act of 1930 prohibits the importation of goods made by convict or forced labor. Current regulations outline detailed procedures to be followed in enforcing the prohibition.

House bill

No provision.

Senate amendment

Establishes civil penalties for violations of the import prohibition under section 307 of the Tariff Act of 1930 and a procedure for parties to petition the Department of Commerce to enforce such prohibition.

Specifically, requires civil penalties of $10,000 for one violation; $100,000 for two violations; and $1,000,000 for three or more violations. Establishes detailed procedures for prepenalty notice and hearings; and for private petitions by "any public interest group, human rights organization, or entity representing an industry adversely affected by imports of convict-made goods." Provides that the Secretary of the Treasury may prescribe sanctions for abuse of discovery and abuse of process.

Conference agreement

House recedes on provision establishing civil penalties for violations of the import ban, with an amendment adding a "knowing" standard.

Senate recedes on the provision establishing private petition procedures. The conferees note that existing Customs regulations to enforce section 307 (19 CFR 12.42-12.62) establish detailed procedures for petitions from "any person" who has reason to believe

that prohibited merchandise is being, or is likely to be, imported into the United States.

8. Report by the President (Section 2 of House Bill; Section 4 of Senate Amendment; Section 6 of Conference Agreement)

Present law

Section 402(d) of the Trade Act of 1974 provides that if the President determines that further extension of the waiver authority will substantially promote the objectives of freedom of emigration, he may recommend extension of such authority for successive 12-month periods. Any such recommendation must be accompanied by a document transmitted to Congress, setting forth his reasons for recommending extension of the waiver authority, and a statement setting forth his reasons for determining that extension of the waiver will substantially promote Title IV's objectives with respect to a particular country.

House bill

Provides that if the President recommends extension of China's waiver in 1992, he must submit as part of the document required in section 402(d) a report on the extent to which the government of China has implemented the measures listed in section 1(a).

Senate amendment

Similar provision.

Conference agreement

Senate recedes.

9. Definitions (Section 1(b) of House Bill; Section 8 of Senate Amendment; Section 7 of Conference Agreement)

Present law

No provision.

House bill

Provides definitions of a number of terms used in the bill, among which: "the term significant progress means the implementation of measures that will meaningfully reduce, or lead to the termination of, the repressive practices identified under item 3."

Senate amendment

Similar provision. However, it defines significant progress as "specific actions taken to achieve the objectives stated" under item 3.

Conference agreement

The conferees agree generally to merge the House and Senate definitions, with conforming amendments. However, the Senate recedes on the definition of "significant progress."

From the Committee on Ways and Means:

DAN ROSTENKOWSKI,
SAM GIBBONS,

ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,

From the Committee on Foreign Affairs:

DANTE B. FASCELL,
STEPHEN J. SOLARZ,

Managers on the Part of the House.

From the Committee on Finance:

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
BOB PACKWOOD,

Managers on the Part of the Senate.

○